

From: Raphael Fleishman
To: Microsoft ATR
Date: 1/26/02 8:21pm
Subject: Microsoft Settlement

To whom it may concern,

I have written earlier to express my concern that the current Microsoft settlement does little in the way of protecting competition, VAR, OEMs, and resellers from retaliatory actions by Microsoft in the event these groups choose to implement non-Microsoft solutions.

I would like to add that I strongly urge the DOJ to pursue further investigation and prosecution of the anticompetitive actions Microsoft used to leverage the web to further its monopoly in Windows operating systems.

Much has been made of Microsoft's right to add features to Windows. It is important to note that the dominant markeshare of Internet Explorer came to pass, besides through the obvious distributional advantage, because Microsoft used the tactics of embrace and extend of the HTML standard in order to pollute standard HTML and make web pages in Internet Explorer render differently than web pages in Netscape. Instead of following the standards of the W3C body Microsoft made up its own.

The network effect of Microsoft's Windows distributional monopoly took part in this because webmasters decided that rendering for Internet Explorer was more important and more stable, from a marketshare perspective, than rendering for Netscape. After all, only some Windows users had access to Netscape or the significant ability and know-how to install it, but all of them had Internet Explorer.

As the proprietization increased and the market of Internet Explorer-enabled web pages increased so did its use. I don't use Internet Explorer as my primary browser, but if I go to certain web pages I'm forced to switch to Internet Explorer instead of using an alternative browser because these web pages have tags that tell me they were optimized for some other browser and won't render correctly in any other.

It is significantly more difficult for competitors to follow the closed proprietary standards of web rendering specified by Internet Explorer than to follow those of the World Wide Web Consortium. It takes significantly more effort on the part of content providers and webmasters to provide two types of web pages, one for Microsoft's proprietary methods, and one for W3C-standarized ones. It's unfair that Microsoft could so easily use an existing monopoly to supplant

competitors' products and I fear that with 90% marketshare and the phenomena of institutional resistance to change, combined with a general lack of knowledge of real computing standards (vs. Microsoft's forced-upon-the-consumer proprietary ones), consumers will be artificially burdened in their attempts to adopt alternative communication-enabling products like browsers.

It is important to watch the progress of Microsoft's Windows Media Player, a newly bundled product to allow the visualization of propriety (non standard, incompatible with competitors) movie media files on client computers across the web, and to determine if the marketshare of exclusive Windows Media Player-compatible content is increasing significantly faster than that of competitors who do not bundle their product with their computers or struggle with decreased distributional advantages like Real Network's Real Player. The inability for consumers using alternative operating systems to browse web content is a significant deterrent to adoption of competitors' Operating Systems and is consequently a clear example of Monopoly Maintenance.

The greatest damage Microsoft caused to consumers is the result of the way in which Microsoft changed the web from a non-propriety platform- and browser- agnostic information exchange system to a Microsoft-favored one. That's not only illegal in light of the Court's finding that Microsoft holds a monopoly in the product market to which Internet Explorer was tied, it's unethical, it's immoral, and it violates the rights of consumers to enabled alternative choices.

I am concerned that as long as Microsoft can continue to leverage bundling with Windows Operating Systems in order to set propriety standards of information exchange - be they text documents, movie files, sound files, or others - competitors are faced with an uphill battle to provide competing propriety protocols or even to design products compatible with Microsoft's.

With Best Regards,

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